

Message Text

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TAGS: PARM, US, UR

SUBJ: TTBT/PNE: NEGOTIATIONS: REVISED LEGAL PROVISIONS TEXT

TTBT/PNE DELEGATION MESSAGE NO. 85

1. IN OCTOBER 31 WORKING GROUP I MEETING SOVIET SIDE WAS GIVEN REVISED TEXT OF ALL LEGAL PROVISIONS FROM BOTH US AND USSR DRAFTS FORMULATED AS ONE ARTICLE. TEXT IS CONTAINED PARA 3 BELOW. PARA 2 BELOW CONTAINS INDICATION OF SOURCES OF EACH PARAGRAPH IN REVISED SINGLE ARTICLE LEGAL TEXT. IT SHOULD BE NOTED (PER PARA 2 OF STATE 255612) THAT PARAGRAPH 1 IS NOW AGREED BY USSR, AND SOVIETS ARE CONSIDERING PARAGRAPH 2. WITH RESPECT TO LATTER, IT WAS POINTED OUT THAT FORMER SOVIET ARTICLE VIII PARA 2 CONTAINS ONLY HALF OF SUBSTANCE OF FORMER US ARTICLE XIII PARA 2.

2. SOURCES FOR PARAGRAPHS IN SINGLE REVISED LEGAL ARTICLE ARE AS FOLLOWS:

- A. PARA 1 -- US ARTICLE XIII PARA 1;
- B. PARA 2--US ARTICLE XIII PARA 2 AND USSR ARTICLE VIII PARA 2;
- C. PARA 3--US ARTICLE IX PARA 1;
- D. PARA 4--US ARTICLE IX PARA 2;
- E. PARA 5--USSR ARTICLE VIII PARA 1 WITH ITS SUBPARAS;

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- F. PARA 6--UNNUMBERED PARA AT END OF USSR ARTICLE VIII,

WITH US ADDITION RE: OBSERVER RIGHTS AND FUNCTIONS;

G. PARA 7--US ARTICLE XII;

H. PARA 8--USSR ARTICLE VI.

(COMMENT: IT WAS POINTED OUT THAT BRACKET OF PARA 8 BY US IS BECAUSE IT DOES NOT YET APPEAR TO COVER POSSIBILITY OF NORMAL PUBLIC AFFAIRS REQUIREMENTS. SOVIET SIDE SSAID THERE WAS NO INTENTION TO PRECLUDE THIS, AND IT WOULD LOOK AT LANGUAGE BEARING US POINT IN MIND. (END COMMENT.)

3. BEGIN TEXT.

ARTICLE XI

1. THE PARTY CARRYING OUT AN EXPLOSION SHALL HAVE SOLE AND EXCLUSIVE CONTROL OVER AND RESPONSIBILITY FOR THE CONDUCT OF EXPLOSIONS.

2. THE PARTY CARRYING OUT AN EXPLOSION SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OTHER PARTY AGAINST ANY AND ALL ACTIONS, CLAIMS AND DEMANDS FOR LOSS, DAMAGE, PERSONAL INJURY OR DEATH, EXCEPT THAT THE PARTY CARRYING OUT AN EXPLOSION SHALL BE EXEMPT FROM INDEMNIFYING FOR DAMAGE WHICH MAY BE CAUSED TO DESIGNATED PERSONNEL AS A RESULT OF LOSS, INJURY OR DEATH, ARISING OUT OF THE CONDUCT OF EXPLOSIONS.

3. DESIGNATED PERSONNEL WITH THEIR EQUIPMENT AND PERSONAL PROPERTY SHALL BE PERMITTED TO ENTER THE TERRITORY OF THE STATE IN WHICH THE EXPLOSION IS TO BE CONDUCTED AT AN ENTRY PORT TO BE AGREED UPON BY THE PARTIES, TO REMAIN THEREIN FOR THE PURPOSE OF FULFILLING THEIR RIGHTS AND FUNCTIONS AS SPECIFIED IN THIS TREATY AND ITS PROTOCOLS, AND TO DEPART FROM AN EXIT PORT TO BE AGREED UPON BY THE PARTIES.

4. VISAS AND ALL TRANSPORTATION AND OTHER ACCOMMODATIONS FOR DESIGNATED PERSONNEL FROM THE TIME OF ENTRY UNTIL DEPARTURE SHALL BE PROVIDED BY OR THROUGH THE PARTY CARRYING OUT THE EXPLOSION.

5. DESIGNATED PERSONNEL SHALL ENJOY FROM THE MOMENT OF
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ENTERING THE TERRITORY OF THE PARTY CARRYING OUT AN EXPLOSION
THE FOLLOWING PRIVILEGES AND IMMUNITIES:

A) PERSONAL INVIOABILITY. DESIGNATED PERSONNEL SHALL NOT BE LIEABLE TO ARREST OR DETENTION IN ANY FORM WHATSOEVER. THE PARTY CARRYING OUT AN EXPLOSION SHALL TAKE ALL APPROPRIATE STEPS TO PREVENT ANY ATTACK ON THE PERSON OR FREEDOM OF DESIGNATED PERSONNEL;

B) IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE PARTY CARRYING OUT AN EXPLOSION. DESIGNATED PERSONNEL SHALL ALSO ENJOY IMMUNITY FROM CIVIL AND ADMINISTRATIVE JURISDICTION;

C) THE RIGHT NOT TO GIVE EVIDENCE AS A WITNESS;

D) INVIOABILITY OF THEIR ARCHIVES AND DOCUMENTS AT ALL TIMES AND WHEREVER THEY MAY BE;

E) EXEMPTION FROM ALL TAXES, CHARGES AND DUTIES, PERSONAL OR REAL, NATIONAL, REGIONAL OR MUNICIPAL, EXCEPT FOR INDIRECT TAXES OF A KIND WHICH ARE NORMALLY INCORPORATED IN THE PRICE OF GOODS OR SERVICES AS WELL AS FROM THE CHARGES LEVIED FOR SPECIFIC SERVICES RENDERED;

F) INVIOABILITY OF OFFICIAL AND LIVING QUARTERS.

6. DESIGNATED PERSONNEL SHALL, WITHOUT PREJUDICE TO THEIR PRIVILEGES AND IMMUNITIES, AND WITHOUT PREJUDICE TO THEIR RIGHTS AND FUNCTIONS AS SPECIFIED IN THIS TREATY AND ITS PROTOCOLS, BE UNDER AN OBLIGATION TO RESPECT THE LAWS AND REGULATIONS OF THE PARTY CARRYING OUT AN EXPLOSION.

7. NOTHING IN THIS TREATY SHALL AFFECT PROPRIETARY RIGHTS IN SCIENTIFIC, TECHNOLOGICAL OR INDUSTRIAL INFORMATION; HOWEVER, CLAIMS TO PROPRIETARY RIGHTS SHALL NOT IMPEDE IMPLEMENTATION OF AGREED VERIFICATION PROCEDURES.

(X) 8. PUBLICATION OF THE INFORMATION PROVIDED IN ACCORDANCE WITH ARTICLE III OF THIS PROTOCOL, OF PUBLICATIONS USING SUCH INFORMATION, AS WELL AS OF THE RESULTS OF OBSERVATION AND MEASUREMENTS OBTAINED BY DESIGNATED PERSONNEL, MAY TAKE PLACE
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ONLY BY AGREEMENT WITH THE PARTY CARRYING OUT AN EXPLOSION. (XX)

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